

Remarks

Claims 2-17 are pending in the application. Claims 5-17 have been withdrawn by the Examiner pursuant to a restriction requirement.

IDS

The Office Action alleges that the ID filed 6/22/06 is non-compliant because it did not include a concise explanation of the German references. The Examiner is respectfully reminded that "[w]here the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an 'X', 'Y', or 'A' indication on a search report." MPEP 609.04(a)(III). An English translation of the German Office Action citing the references was included in the IDS. Accordingly, consideration of the references and a copy of the SB/08a form initialed by the Examiner is respectfully requested.

Claim rejections

Section 112

Claims 2-4 were rejected under 35 USC 112, 1st paragraph. The Applicant respectfully traverses. Support for the claims may be found in the specification at, for example, page 4 line 26 to page 6, line 7; page 37, lines 14-24; and FIG. 3.

As can be seen in FIG. 3, the period of time change in the upper graph is different from the period of time change in the lower graph. Specifically, in the upper graph, the period from the time t_1 when the rotation angular acceleration reaches a peak positive value of α_1 to the time greater than t_2 and less than t_3 when the rotation angular acceleration reaches a peak negative value of $-\alpha_2$, is greater than the period of time change in the lower graph, i.e., the period from the time t_1 when the rotation angular acceleration reaches a peak positive value of α_1 to the time t_2 when the rotation angular acceleration reaches a peak negative value of $-\alpha_2$.

The difference of the example of FIG. 3 corresponds to the claimed "variation in period of a time change of the measured rotation angular acceleration" Page 37, lines 20-24 of the specification give one possible example of the claimed "predetermined reference value." According to one example the predetermined reference value could be "the product of the first period and a constant r of less than 1" (lines 23-24). Note that this also supports "predetermined rate" as in claims 3 and 4. The rejection refers to a "predetermined time," but this language does not appear in claims 2-4.

In view of the above, it is respectfully submitted that the application is fully compliant with 35 USC 112, 1st paragraph. Withdrawal of the rejection is therefore respectfully requested.

Section 103

Claims 2 and 3 were rejected under 35 USC 103 as being unpatentable over Saji Kenji (JP 06130078) (hereafter, "Saji"). The Applicant respectfully traverses. Saji cannot support the rejection for at least the reason that Saji does not disclose or suggest "a condition change estimation module that estimates the change of the road surface condition, based on a variation in period of a time change of the measured rotation angular acceleration that increases to or over a predetermined reference value."

In view of the above explanation, it is clear that Saji lacks the above feature. Further, Office Action recognizes this, observing that "Saji lacks a variation in period of a time change of the measured wheel acceleration at or over a predetermined rate" (Office Action, page 4, lines 12-13). The Office Action contends that the feature is obvious merely because Saji discloses measuring wheel acceleration. However, the Examiner is respectfully reminded that "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01. The mere disclosure of measuring wheel acceleration in no way suggests the features of the present claims.

Accordingly, claim 2 is allowable over Saji, as are claims 3 and 4 for at least the reason that they depend on claim 2. Withdrawal of the rejection is therefore respectfully requested.

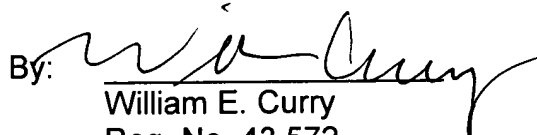
Conclusion

In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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